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Order 2001-8-20

Served: August 22, 2001



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 22nd day of August, 2001

Applications of

**TOURJETS AIRLINE CORPORATION
(formerly SwissJet, Inc.)**

for certificates of public convenience and necessity under 49
U.S.C. 41102 to engage in interstate and foreign charter air
transportation of persons, property and mail

**Dockets OST-2000-7546-15
and
OST-2000-7547-10**

ORDER TO SHOW CAUSE

Summary

By this order, we tentatively conclude that Tourjets Airline Corporation is a citizen of the United States, is fit, willing, and able to provide interstate and foreign charter air transportation of persons, property, and mail, and should be issued certificates of public convenience and necessity authorizing such operations.

Background

Section 41102 of Title 49 of the United States Code (Transportation) ("the Statute") directs us to determine that applicants for certificate authority to provide interstate and foreign charter air transportation of persons, property and mail are "fit, willing, and able" to perform such transportation and to ensure that all operations relating to this authority conform to the provisions of the Statute and the regulations and requirements of the Department. In making fitness findings, the Department uses a three-part test that reconciles the Airline Deregulation Act's liberal entry policy with Congress' concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a company's fitness are whether the applicant (1) will have the managerial skills and technical ability to conduct the proposed operations, (2) will have access to resources sufficient to commence operations without posing an undue risk to consumers, and (3) will comply with the Statute and regulations imposed by Federal and State agencies. We must also find that the applicant is a U.S. citizen.

On June 19, 2000, Tourjets Airline Corporation (Tourjets) filed applications in Dockets OST-2000-7546 and OST-2000-7547 requesting authority under 49 U.S.C. 41102 to provide interstate and foreign charter air transportation of persons, property, and mail. Tourjets'

applications were filed initially under the name "Swissjet, Inc." However, the applicant subsequently changed its corporate name to "Tourjets Airline Corporation" and amended its applications in that name. Tourjets accompanied its applications with information required by section 204.3 of our regulations for an examination of its fitness to hold such authority.¹

We have received no answers to the applications.² No special issues regarding the applicant have come to our attention. Under these circumstances, we propose to decide the issue of Tourjets's fitness on the basis of the written record. As discussed below, we tentatively conclude that Tourjets is fit, willing, and able to operate its proposed air service. However, we will give interested persons an opportunity to show cause why we should not adopt as final these tentative findings and conclusions.

FITNESS

The Company

Tourjets, a non-operating company headquartered in Ft. Lauderdale, Florida, was incorporated in Florida on April 3, 2000. Its two founders--Serge Feller and J.W. Korth & Company (Korth & Co.), a securities brokerage firm--currently hold 95.54 percent of the company's stock.³ If granted the certificates it seeks, the applicant plans to purchase 142-seat MD-82 aircraft and provide charter flights in the United States and to other points in the Western Hemisphere.

Managerial Competence

In addition to his ownership interest, Serge Feller is Tourjets' Chairman of the Board,⁴ President and Chief Executive Officer. In these positions, Mr. Feller is responsible for the overall business of the company including its long-term business plans, capitalization, marketing and aircraft acquisition. Mr. Feller holds FAA Airline Transport Pilot and Flight Engineer licenses and was a pilot for Engle Flying Service (1983-1985), Wings West (1985-1987), and Continental Airlines (1987-1988). He was the owner and President of FellAir, a flight school, between 1988 and 1992. He served as Managing Director of Swisscorp, a currency fund (1992-1994), and in the same position with Korth & Co. (1994-1998). Prior to

¹ The applicant supplemented its applications with additional information, most recently on August 2, 2001.

² SAirGroup, the parent of Swissair, a foreign air carrier, sent a letter to the Department and to the applicant stating that it opposed the applicant's use of the Swissjet name, claiming that such use would create confusion between the two airlines. The applicant has now changed its name, thus resolving this concern.

³ Mr. Feller and Korth & Co. each hold 47.77 percent of the applicant's stock.

⁴ Four other individuals serve on Tourjets' Board of Directors: James W. Korth, who is the majority owner of Korth & Co.; Benham Elliott, who is Executive Vice President of The Farwell Group, an executive placement company, and who is a former pilot of Eastern Air Lines; Richard Spaulding, who currently owns Spaulding Aviation, an aviation consulting firm, and who was formerly employed in various positions by USAirways and USAir Group; and Isidor Bulholzer, who is Vice President of American Financial Group, a private investment company.

forming Tourjets, he was employed as Executive Vice President of World Airways (1998-1999).

Daniel Jenkins will be Tourjets' Chief Operating Officer and Director of Operations. Mr. Jenkins will be responsible for overseeing the actual day-to-day airline operations of the applicant, including serving as Tourjets' liaison with the FAA. Prior to joining Tourjets, Mr. Jenkins served as a Captain and Vice President-Flight Operations and Training for Gemini Air Cargo (1996-2000). Other aviation positions he has held include Vice-President Flight Operations and Training for TransMeridian Airlines (1995-1996), and Vice President-Flight Operations for Express Airlines I (1994-1995). Mr. Jenkins holds Airline Transport Pilot and Flight Engineer licenses from the FAA.

Jodhi Valliappan will be Tourjets' Managing Director of Maintenance. Mr. Valliappan holds an FAA Airframe and Powerplant Mechanic license and has held airline maintenance positions for almost 30 years. Most recently, he served as Vice President of Maintenance and Engineering for Arrow Air (1998-2001). Other managerial positions he has held include Managing Director of Maintenance for Pan American Airways (1996-1998), Consultant and Director of Maintenance for Laker Airways (1991-1996),⁵ Vice President of Maintenance and Technical Engineer-Special Projects for Midway Airlines (1984-1991), and Manager of Maintenance (1977-1980) and Director of Maintenance (1980-1984) for Air Florida.

Tourjet's Director of Quality Control will be Richard Mikluscak. Mr. Mikluscak has held various aviation maintenance positions for many years. Prior to joining Tourjets, he was Vice President of Quality Assurance and Engineering for Fine Air Services (1998-2000). Between 1990 and 1998, he held several positions with Southern Air Transport.⁶ Before that, he served as Manager of Planning and Analysis (1984-1985) and Director of Quality Control (1985-1988) for MarkAir, Inc. Mr. Mikluscak holds an FAA Airframe and Powerplant Mechanic license.

Roy Spencer will be Tourjets' Chief Pilot. His airline experience dates back to 1975 when he served as an Air Carrier Inspector at the FAA (1975-1980, 1983). Before joining Tourjets, he was a Captain and Chief Pilot for Gemini Air Cargo (1996-2000). His prior employment includes General Manager and Vice President-Airline Operations at TransMeridian Airlines (1995-1996), Director of Flight Crew Training for DHL Airways (1994-1995), Vice President-Airline Operations for Eastwind Capital Partners (1993-1994); Chief Operating Officer of American Flight Group, and Senior Vice President-Operations at Business Express (1987-1991). Mr. Spencer holds an FAA Airline Transport Pilot license and has approximately 11,500 total flight hours, of which 9,800 were as pilot-in-command.

⁵ Mr. Valliappan served as a consultant for Laker between November 1991 and October 1995; he served as Director of Maintenance from October 1995 to April 1996.

⁶ These included Director of Aircraft Acquisitions and Special Projects (December 1997-June 1998), Vice President of Maintenance and Engineering (May-December 1997), Director of Quality Control (March 1992-May 1997), and Senior Maintenance Representative (1990-1992).

Tourjets' Director of Safety will be Dan Govatos. Mr. Govatos holds FAA Airline Transport Pilot, Flight Engineer, and Airframe and Powerplant Mechanic licenses. His past aviation experience includes serving as a pilot for Eastern Airlines (1989-1991), Grand Airways (1991-1992) and Four Corners Aviation (1993-1994), Director of Training and Assistant Chief Pilot for Presidential Airways (1995-1996), Director of Operations Training for Polar Air Cargo (1998-1999), and Chief Pilot for Casino Express (1999-2000).⁷

Tourjets' Chief Financial Officer will be Todd DeMand. Mr. Demand holds a B.S. in Accounting and M.S. in Finance. Mr. DeMand is currently the Financial and Operations Principal/Chief Financial Officer for Korth & Co., a position he has held since 1992.

In light of the experience and qualifications of the above individuals, plus the fact that the FAA also reviews the qualifications of an applicant's key technical personnel to hold their respective positions,⁸ we tentatively find that Tourjets' management team is qualified to manage its proposed charter operations.

Operating Plan and Financial Position

If certificated, Tourjets intends to commence operations by using two 142-seat MD-82 aircraft in passenger charter service.⁹ It expects that the majority of its operations will be to points within the United States and between the United States and points in Canada, the Caribbean, Mexico, and South America. The applicant plans to arrange its own tour packages, including its own air services, which it will then market through other tour operators and travel agents. In all, the company expects to operate approximately 3,682 block hours in its first year of certificated operations.

Tourjets provided an audited balance sheet for the company at October 31, 2000, as well as an unaudited balance sheet at June 30, 2001. At June 30, the applicant had total assets of \$24,219, total liabilities of \$570,190, and negative net equity of \$545,971. The applicant does not, however, intend to rely on internal financial resources to support its air carrier services. Instead, it intends to use the proceeds of a public offering of its stock.¹⁰

⁷ Mr. Govatos also served as Director of Training/Chief Pilot at Jet USA Airlines (1996), and Director of Operations at CalJet Airlines (1997) during the period that these companies were pursuing airline certification.

⁸ Before authorizing a carrier to conduct air transportation operations, the FAA evaluates the carrier's Directors of Operations, Maintenance and Safety, Chief Pilot and Chief Inspector with respect to the minimum qualifications for those positions as prescribed in the Federal Aviation Regulations. The FAA's evaluation of these key personnel provides an added practical and in-person test of the skills and technical ability of these individuals.

⁹ Tourjets plans to purchase up to six MD-82 aircraft from another U.S. air carrier. The first two aircraft will be used by Tourjets in its initial airline operations, with the remaining aircraft leased back to the seller until such time as Tourjets is able to use them in its own operations.

¹⁰ Tourjets has provided a copy of its offering document and is currently marketing its stock to prospective investors.

Tourjets estimates that it will require approximately \$18 million to obtain the two aircraft it initially plans to use and an additional \$3 million to cover other pre-operating expenses. The company has also provided a forecast indicating that it expects to incur approximately \$16.1 million in operating expenses during its first year of operations. We have reviewed the forecast direct operating costs and believe them to be reasonable for the limited services currently proposed. Based on these projections, we estimate that Tourjets will need approximately \$25.54 million to meet our financial test.¹¹ Tourjets' stock offering, if completed, is expected to provide the company with approximately \$69 million in net proceeds.¹²

In light of the above, we tentatively conclude that Tourjets has developed a reasonable operating plan and that its funding plans, if successful, will provide it with sufficient financial resources to commence its operations without posing an undue risk to consumers or their funds.¹³

Compliance Disposition

Tourjets states that there have been no charges of unfair, deceptive or anticompetitive business practices, or fraud, felony or antitrust violations brought against it, its key personnel, or any other relevant company, or the key personnel or substantial shareholders of any such relevant company within the past ten years, and that there are no actions or judgments outstanding against it, or any of these persons. In addition, the applicant declared that there are no investigations pending and that no formal enforcement actions have been taken against it or any of these persons regarding compliance with the Statute or any regulations or orders issued pursuant to the Statute in the past ten years.

Tourjets advises, however, that in 1997, the Securities and Exchange Commission (SEC) filed suit against Korth & Co., one of the applicant's two majority shareholders, to compel it to provide to the SEC the serial numbers of certain German bonds that Korth & Co. was marketing at the time in order to verify the validity of the bonds with the German Government. Although Korth & Co. argued that, divulging this information might undermine the bonds' marketability, the Court found in the SEC's favor and Korth & Co. was compelled to turn over

¹¹ To meet the Department's financial fitness criteria, an applicant should have access to financial resources sufficient to cover all pre-operating expenses and expenses that are reasonably expected to be incurred during three months of "normal" certificated operations. Because projected expenses during the first several months of operations frequently do not include all of the costs that will be incurred during a normal period of operations, it is our practice to base our three-month test on one quarter of the first year's operating cost forecast. Projected revenues may not be used to offset any of this amount. In this case, the \$25.54 million is comprised of \$21 million in aircraft and other pre-operating expenses, \$4 million for one-quarter of its first year expenses, plus \$545,000 to cover outstanding current liabilities.

¹² These additional funds will be used to purchase the other four aircraft noted above and provide additional working capital for the applicant.

¹³ As is our practice, before making any certificate authority awarded to Tourjets effective, we will require the company to provide third-party verification that it has actually obtained funding sufficient to meet our financial test.

the disputed information, which it did. The Court also fined Korth & Co. \$50,000, and its principal owner, James W. Korth, \$5,000, for their violations, but found that no fraud was involved and that no investor losses had occurred.¹⁴

While we do not condone Korth & Co.'s actions in this matter, we do not believe it indicates a pattern of negative compliance posture for the applicant. We note that, after the court ruled, Korth & Co. provided the disputed information to the SEC. Moreover, Korth & Co. continues to be authorized by the SEC to sell securities.

We have reviewed our own files and other information available to us and found no other negative information about the applicant, its principals, and managers. In addition, the FAA advises us that it knows of no reason why we should not find the applicant fit for its proposed operations. Based on the above, we tentatively find that Tourjets will have the proper regard for the laws and regulations governing its service to ensure that its aircraft and personnel will conform to applicable safety standards and that acceptable consumer relations practices will be followed.

CITIZENSHIP

49 U.S.C. 41102 requires that certificates to engage in air transportation be held only by citizens of the United States as defined in 49 U.S.C. 40102(a)(15). That section specifies that the president and two-thirds of the board of directors and other managing officers be U.S. citizens and that at least 75 percent of the outstanding voting stock be owned by U.S. citizens. We have also interpreted the Statute to mean that, as a factual matter, the carrier must actually be controlled by U.S. citizens.

Tourjets states that Serge Feller and Korth & Co. currently hold approximately 95 percent of the company's stock, and that both of these shareholders are U.S. citizens.¹⁵ The applicant also states that all of its directors and key management personnel are U.S. citizens, and has submitted an affidavit attesting that it is a U.S. citizen. Finally, there is no other information before us that would lead us to conclude that Tourjets is not controlled by U.S. citizens.¹⁶

In view of the foregoing, we tentatively conclude that Tourjets is a U.S. citizen and that it is fit, willing, and able to provide air transportation services as a certificated air carrier.

¹⁴ At the time of its Korth & Co.'s dispute with the SEC, Serge Feller, Tourjets' other majority shareholder, was Korth & Co.'s Managing Director. Mr. Feller was not specifically cited or fined by the Court.

¹⁵ Korth & Co. is a Michigan limited partnership, which is owned primarily (88 percent) by Mr. James W. Korth, a Tourjets director and a U.S. citizen. Tourjets further states that the remaining partners in Korth & Co. are all U.S. citizens.

¹⁶ As noted earlier, Tourjets is presently conducting an offering of its stock in order to finance the commencement of certificated air carrier operations. If Tourjets is found fit and issued its requested certificates, prior to making the authority contained in those certificates effective, we will expect the applicant to provide updated information on its ownership and citizenship as a result of its financing efforts.

PUBLIC CONVENIENCE AND NECESSITY

No finding of consistency with the public convenience and necessity is required for the award of authority for interstate charter air transportation of persons, property, and mail under section 41102, although such a finding is required for authority to engage in foreign charter air transportation.

We tentatively find that the foreign charter air transportation proposed by Tourjets is consistent with the public convenience and necessity. By Order 78-7-106, which instituted the *Former Large Irregular Air Service Investigation*, the Civil Aeronautics Board found that there was a continuing demand and need for additional charter air carriers. These findings remain valid and apply to the authority sought by Tourjets. Therefore, if Tourjets meets the fitness requirements of the Statute, it will receive certificates authorizing it to engage in interstate and foreign charter air transportation of persons, property, and mail under section 41102.¹⁷

REQUEST FOR CONFIDENTIAL TREATMENT

On September 19, 2000, Tourjets filed several exhibits (CONV-1 through CONV-5) containing detailed breakdowns of several of the expense categories contained in its applications. Tourjets seeks confidential treatment of this information under section 302.12 of the Department's rules. In support of its request, Tourjets states that the information is commercially sensitive and warrants confidential treatment by the Department.

Rule 12 instructs us to evaluate requests for confidential treatment in accordance with the standards of disclosure found in the Freedom of Information Act (5 U.S.C. section 552). Information may be withheld from disclosure under 5 U.S.C. section 552(b)(4) if it is (1) commercial or financial, (2) obtained from a person outside of government, and (3) privileged or confidential.¹⁸

There is no question that the information for which Tourjets seeks confidential treatment is commercial or financial in nature and that it was obtained from a person outside the government. The remaining question is whether the information is privileged or confidential--whether "disclosure of the information is likely to have either of the following effects: (1) impair the Government's ability to obtain necessary information; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained."¹⁹ Further, to be privileged or confidential, the information must not be of the type that is usually released to the public.²⁰

We note that the information provided in these exhibits is of a level of detail beyond that typically required by the Department or provided by carrier-applicants in fitness cases, and is

¹⁷ Pursuant to 49 U.S.C. 41307, issuance of foreign authority to the applicant is subject to Presidential review.

¹⁸ See *Gulf and Western Industries, Inc. v. United States*, 615 F.2d 527, 529 (D.C. Cir. 1979).

¹⁹ See *National Parks and Conservation Association v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974).

²⁰ See *Gulf and Western Industries, Inc. v. United States*, 615 F.2d 527, 530 (D.C. Cir. 1979).

similar to information for which we have provided confidential treatment in the past when asked to do so. Thus, we will grant Tourjets' request for confidential treatment of these exhibits.

OBJECTIONS

We will give interested persons 14 calendar days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers to objections will be due within 7 calendar days thereafter. We expect such persons to direct their objections, if any, to the applications and points at issue and to support such objections with detailed economic analyses.²¹ We will not entertain general, vague, or unsupported objections. If no substantial objections are filed, we will issue an order that will make final our tentative findings and conclusions with respect to certification and fitness and will issue Tourjets certificates that will contain exact copies of the attached Terms, Conditions, and Limitations.

EFFECTIVE CERTIFICATE CONDITIONS AND LIMITATIONS

If Tourjets is found fit and issued the certificates it seeks, its authority will not become effective until the carrier has fulfilled all of the requirements for effectiveness as set forth in the terms and conditions attached to its certificates. Among other things, this includes our receipt of evidence from the FAA that Tourjets has received authority from that agency to conduct charter passenger air transportation under Part 121 of the Federal Aviation Regulations, evidence that Tourjets has obtained liability insurance coverage meeting the requirements of Part 205 of our rules, third-party verification that it has obtained financial resources sufficient to meet our financial fitness criteria, and a statement demonstrating that the company has undergone no other changes in its ownership, management, operations, finances, or compliance posture that would alter our finding of fitness for the company.

Furthermore, we remind Tourjets of the requirements of 49 U.S.C. 41110(e). Specifically, that section requires that, once a company is found fit initially, it must remain fit in order to hold its authority. To be assured that certificated air carriers continue to be fit after effective authority has been issued to them, we require that they supply information describing any subsequent substantial changes they may undergo in areas affecting fitness. Our findings may not hold true if the company were to substantially change the scope of its operations, including the acquisition of additional aircraft. Therefore, once Tourjets' certificates become effective, we will require that, should it propose to increase its fleet beyond three aircraft,²² it must

²¹ If an oral evidentiary hearing or discovery procedures are requested, the objector should state in detail why such a hearing or discovery is considered necessary, and what material issues of decisional fact the objector would expect to establish through a hearing or discovery that cannot be established in written pleadings. The objector should consider whether discovery procedures alone would be sufficient to resolve material issues of decisional fact. If so, the type of procedure should be specified (*see* Part 302, Rules 19 and 20); if not, the reasons why not should be explained.

²² We may modify the number of aircraft authorized here once the carrier's financing efforts have been completed.

advise the Department in writing at least 45 days prior to the proposed addition of such aircraft and provide updated fitness information relating to its expanded operations.²³ Furthermore, should Tourjets propose other substantial changes in its ownership, management, or operations, it must first comply with the requirements of section 204.5 of our rules.²⁴ The compliance of the carrier with this requirement is essential if we are to carry out our responsibilities under 49 U.S.C. 41110(e).²⁵

Moreover, to aid the Department in monitoring the fitness of new air carriers, we have adopted a requirement that all start-up carriers must submit a detailed progress report to the Air Carrier Fitness Division within 45 days following the end of the first year of actual flight operations. The report should include a description of the carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements,²⁶ and a listing of current senior management and key technical personnel. The carrier should also be prepared to meet with staff members of the Fitness Division to discuss its current and future operations.

ACCORDINGLY:

1. We direct all interested persons to show cause why we should not issue orders making final our tentative findings and conclusions stated above and award certificates to Tourjets Airline Corporation authorizing it to engage in interstate and foreign charter air transportation of persons, property and mail, subject to the attached specimen Terms, Conditions, and Limitations.

²³ Such information should include not only current financial information, but also information describing any changes the company has made, or proposes to make, to support the operation of such additional aircraft.

²⁴ Tourjets may contact our Air Carrier Fitness Division to report proposed substantial changes and determine what additional information, if any, will be required under section 204.5. In addition, by notice dated July 21, 1998, the Department requested air carriers to provide a 30-day advance notification of any proposed change in ownership, restructuring, or recapitalization. If the company fails to file the information or if the information fails to demonstrate that the carrier will continue to be fit upon implementation of the substantial change, the Department may take such action as is appropriate, including enforcement action or steps to modify, suspend, or revoke the carrier's certificate authority.

²⁵ We also remind Tourjets about the requirements of section 204.7 of our rules. This section provides, among other things, that: (1) the certificate authority granted to a company shall be revoked if the company does not commence actual flying operations under that authority within one year of the date of the Department's determination of its fitness; (2) if the company commences the operations for which it was found fit and subsequently ceases such operations for any reason, it may not resume certificated operations unless its fitness has been redetermined; and (3) if the company does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

²⁶ These financial statements should include a balance sheet as of the end of the company's first full year of actual flight operations and a 12-month income statement ending that same date.

2. We direct any interested persons having objections to the issuance of orders making final any of the proposed findings, conclusions, or the certificate award set forth here to file such objections with the Department of Transportation Dockets, 400 Seventh Street, S.W., Washington, D.C. 20590, in Dockets OST-00-7546 and OST-00-7547, and serve them upon all persons listed in Attachment A no later than 14 days after the service date of this order; answers to objections shall be filed no later than 7 days thereafter.
3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action.
4. In the event that no objections are filed, we will consider all further procedural steps to be waived and we will enter orders making final our tentative findings and conclusions and will issue Tourjets Airline Corporation certificates that will contain exact copies of the attached specimen Terms, Conditions, and Limitations.²⁷
5. We grant the September 19, 2000, Motion for Confidential Treatment filed by Tourjets Airline Corporation.
6. We will serve a copy of this order on the persons listed in Attachment A.
7. We will publish a notice of this order in the Federal Register.

By:

SUSAN McDERMOTT
Deputy Assistant Secretary for
Aviation and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

²⁷ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.



Specimen
Terms, Conditions, and Limitations

TOURJETS AIRLINE CORPORATION

is authorized to engage in interstate charter air transportation of persons, property and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

- (1) The authority to operate under this certificate will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:*
 - (a) A copy of the holder's Air Carrier Certificate and Operations Specifications authorizing such operations from the Federal Aviation Administration (FAA).*
 - (b) A certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.*
 - (c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.*
 - (d) A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.*
- (2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card), issue tickets for the operations proposed under this certificate, or enter into contracts with charter operators, and any advertisement by the holder must prominently state: "This service is subject to receipt of government operating authority."*

(3) *The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*

(4) *The holder's authority is effective only to the extent that such operations are also authorized by the FAA, and comply with all FAA requirements concerning security.*

(5) *The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*

(6) *The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*

(7) *The holder is not authorized to engage in air transportation operations between points within the State of Alaska.*

(8) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*

(9) *In the event that the holder does not commence actual flying operations under this certificate within one year of the date of the Department's determination of its fitness, its authority shall be revoked for dormancy, unless the holder is conducting operations under another type of certificate authority. Further, in the event that the holder commences operations for which it was found "fit, willing, and able" and subsequently ceases all such operations, its authority under all certificates held shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*



Specimen
Terms, Conditions, and Limitations

TOURJETS AIRLINE CORPORATION

is authorized to engage in foreign charter air transportation of persons, property, and mail:

Between any place in the United States and any place outside thereof.

This authority is subject to the following provisions:

- (1) The authority to operate under this certificate will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:*
 - (a) A copy of the holder's Air Carrier Certificate and Operations Specifications authorizing such operations from the Federal Aviation Administration (FAA).*
 - (b) A certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.*
 - (c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.*
 - (d) A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.*
- (2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card), issue tickets for the operations proposed under this certificate, or enter into contracts with charter operators, and any advertisement by the holder must prominently state: "This service is subject to receipt of government operating authority."*

- (3) *The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (4) *The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.*
- (5) *The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.*
- (6) *The holder's authority is effective only to the extent that such operations are also authorized by the FAA, and comply with all FAA requirements concerning security.*
- (7) *The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (8) *The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (9) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*
- (10) *In the event that the holder does not commence actual flying operations under this certificate within one year of the date of the Department's determination of its fitness, its authority shall be revoked for dormancy, unless the holder is conducting operations under another type of certificate authority. Further, in the event that the holder commences operations for which it was found "fit, willing, and able" and subsequently ceases all such operations, its authority under all certificates held shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*
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Attachment A

SERVICE LIST FOR TOURJETS AIRLINE CORPORATION

MR. SERGE FELLER, PRES.
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